

1 BENJAMIN CLOWARD, ESQ.
2 Nevada Bar No. 11087
3 SAMANTHA A. MARTIN, ESQ.
4 Nevada Bar No. 12998
5 **RICHARD HARRIS LAW FIRM**
6 801 South Fourth Street
7 Las Vegas, Nevada 89101
8 Telephone: (702) 444-4444
Fax: (702) 444-4455
E-Mail: SMartin@richardharrislaw.com
9 *Attorneys for Plaintiffs*

10 **UNITED STATE DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 ROBERT ANSARA, as Special) CASE NO.: 2:19-CV-01394-GMN-VCF
13 Administrator of the estate of D.B., born)
14 December 18, 2015 and died August 15,) **STIPULATION AND ORDER TO**
15 2017 and GABRIELLE BRANON-) **EXTEND DISCOVERY (Third**
16 CHESLEY, individually, as the Natural) **Request)**
17 Mother of D.B., DAVID BANKS,)
18 individually and as the Natural Father of)
19 D.B.,)
20 Plaintiffs,)
21 v.)
22 GLORIA MALDONADO, individually;)
23 AUDRA GUITERREZ, individually;)
24 CLARK COUNTY, a Political Subdivision)
25 of the State of Nevada, DOE individuals I-)
26 XX; ROE CLARK COUNTY)
27 DEPARTMENT OF FAMILY SERVICES)
28 EMPLOYEES I-XX, individually and in)
their official capacities; TROPICANA DE,)
LLC, d/b/a SIEGAL SUITES OF)
TROPICANA, a Foreign Limited Liability)
Corporation; AND DOE SECURITY)
COMPANY and ZOE CORPORATIONS)
XXI-XXX,)
Defendants.)

IT IS HEREBY STIPULATED by and between the parties that discovery shall be extended two hundred and forty (240) days until **December 10, 2021**.

This litigation arose out of an alleged wrongful death that occurred on August 15, 2017. The parties have engaged in extensive motion work during the pendency of this litigation, as summarized below:

1. Plaintiffs filed their original Complaint on (ECF No. 5) on August 14, 2019.
 2. A First Amended Complaint (ECF No. 5) was filed on August 15, 2019.
 3. Defendant Tropicana DE, LLC filed their Motion to Dismiss (ECF No. 16) on September 9, 2019.
 4. Plaintiffs filed their Opposition to Defendant Tropicana's Motion (ECF No. 21) on September 30, 2019.
 5. Defendant Tropicana filed their Reply (ECF no. 28) thereto on October 7, 2019.
 6. Plaintiffs filed a Motion for leave to file a Second Amended Complaint (ECF no. 31) on October 8, 2019.
 7. Defendant Richard Whitley filed a Motion to Dismiss (ECF No. 41) on October 24, 2019.
 8. Defendants Clark County, Gloria Maldonado, Audra Gutierrez/Guerro, Yolanda King and Tim Burch filed their Joinder to Richard Whitley's Motion to Dismiss (ECF No. 42); and their Separate Motion to Dismiss (ECF No.45) on October 31, 2019.
 9. Plaintiffs filed an Opposition (ECF No. 48) to Richard Whitley's Motion to Dismiss on November 8, 2019.
 10. Defendant Richard Whitley filed a Reply to Plaintiff's Opposition (ECF No. 50) on November 13, 2019.
 11. Defendant Clark County, Gloria Maldonado, Audra Gutierrez/Guerro, Yolanda King and Tim Burch filed their Joinder to Richard Whitley's

Reply to Response to Motion to Dismiss (ECF. No. 52) on November 14, 2019.

12. Defendant Clark County, Gloria Maldonado, Audra Gutierrez/Guerrero, Yolanda King and Tim Burch filed their Reply to Plaintiffs' Opposition to Dismiss Plaintiffs' First Amended Complaint (ECF no. 56) on November 26, 2019.
 13. The Court entered an Order (ECF No. 63) regarding the Motions to Dismiss filed by all Defendants (ECF Nos. 16, 41, and 45) as well as Plaintiffs Motion to Amend (ECF No. 31) on May 7, 2020. In that Order, the Court granted in part and denied in part Defendants' Motions as well as Plaintiffs' Motion to Amend. Specifically, the Court held that the claims against the Defendants were ***dismissed without prejudice*** but that Plaintiffs' Motion to Amend was **granted** in part and **denied** in part. ECF No. 63 P. 20:1-20. Plaintiffs were awarded twenty-one (21) days from the date of the Order to file a Second Amended Complaint.
 14. Plaintiffs filed their Second Amended Complaint (ECF No. 64) on May 28, 2020.
 15. A Stipulation and Order of Dismissal of Defendants Yolanda King and Timothy Burch with Prejudice was signed and entered on June 5, 2020 (ECF No. 69).
 15. Defendant Tropicana filed their Motion to Dismiss Plaintiffs' Second Amended Complaint (ECF No. 70) on June 11, 2020.
 16. Defendant Clark County, et. al., filed their Motion to Dismiss Plaintiffs' Second Amended Complaint (ECF No. 72) on June 25, 2020.
 17. The Stipulation and Order for Extension to Respond to Defendant Tropicana DE, LLC Motion to Dismiss (ECF No. 74) was entered on June 26, 2020. This stipulation granted Plaintiffs until July 27, 2020 to Oppose Defendant's Motion.

18. A second Stipulation and Order for Extension of Time was entered in to
2 by Plaintiffs and counsel for Defendant Tropicana. This Stipulation
3 extended Plaintiffs time to oppose Defendant's Motion to Dismiss
5 Plaintiffs Second Amended Complaint from July 27, 2020 until September
6 10, 2020. This Order was entered on July 21, 2020 (ECF No. 82).
19. On July 23, 2020, the Court entered an Order on the Stipulation for
8 Extension to Respond to Defendant Clark County et. al.'s Motion to
9 Dismiss Plaintiffs Second Amended Complaint (ECF No. 84). This Order
10 granted Plaintiffs an extension until August 31, 2020 to respond to said
11 Motion.
12. On August 31, 2020, the Court entered an Order extending discovery -
13 second request (ECF No. 86).
14. On September 1, 2020, Plaintiffs' Response to Motion to Dismiss was filed
15 (ECF No. 87).
16. On September 3, 2020, the Court entered an Order re extension of time
17 (First Request) to Reply re Motion to Dismiss, (ECF No 88).
18. On September 9, 2020, Plaintiffs filed Response to Motion to Dismiss
19 (ECF No. 90).
20. On September 9, 2020, Plaintiffs filed Motion to Amend Complaint (ECF
21 No. 91).
22. On September 11, 2020, The Court entered Order regarding Defendant
23 Tropicana De, LLC's Stipulation for Substitution of Attorneys (ECF No.
24 93).
25. On September 16, 2020, Defendant Tropicana De, LLC filed a Reply
26 regarding Motion to Dismiss (ECF No. 94).
27. On September 23, 2020, Defendant filed Response to Motion to Amend
28 Complaint (ECF No. 95).

- 1 28. On September 25, 2020, the Court entered an Order granting Extend
- 2 Deadlines to Reply to Motion to Dismiss (ECF No. 97).
- 3 29. On October 5, 2020, the Court entered an Order granting Stipulation to
- 5 Extend Deadline to Reply to Motion to Amend Complaint. (ECF No. 99)
- 6 30. On October 5, 2020, Plaintiffs filed a Reply regarding Motion to Amend
- 7 (ECF No. 100).
- 8 31. On October 9, 2020, Defendants Clark County, Audra Gutierrez, Gloria
- 9 Maldonado filed a Response to Motion to Amend (ECF No. 101).
- 10 32. On October 9, 2020, Defendants Clark County, Audra Gutierrez, Gloria
- 11 Maldonado filed a Reply regarding Motion to Dismiss (ECF No. 102).
- 12 33. On October 9, 2020, Defendants Clark County, Audra Gutierrez, Gloria
- 13 Maldonado filed a Motion to Leave to File Exhibits Under Seal (ECF No.
- 14 103).
- 15 34. On October 15, 2020, the Court entered an Order granting Stipulation to
- 16 file Reply re Motion to Amend (ECF No. 106).
- 17 35. On November 10, 2020, the parties filed a Joint Status Report (ECF No.
- 18 108)
- 19 36. On November 20, 2020, the Court entered an Order granting Stipulation
- 20 for Extension of Time (Second Request) to Reply to Plaintiffs'
- 21 Countermotion to Amend Complaint (ECF No. 111).
- 22 37. On November 20, 2020, Plaintiffs filed a Reply re Motion to Amend (ECF
- 23 No. 112).
- 24 38. On February 22, 2021, the Court entered an Order Denying Defendant
- 25 Tropicana's Motion to Dismiss, Granting in Part and Denying in Part
- 26 Clark County Defendants' Motion to Dismiss, Granting Clark County
- 27 Defendants' Motion for Leave to File, and Denying without prejudice
- 28 Plaintiff's Motion to Amend (ECF No. 113).

1 39. On March 8, 2021, Defendant Tropicana De, LLC filed Answer to Second
2 Amended Complaint (ECF No. 114).

3 40. On March 9, 2021, Defendants Clark County, Audra Gutierrez, Gloria
4 Maldonado filed Answer to Second Amended Complaint (ECF No. 115).

5
6
7 In January 2021, counsel for Plaintiffs Samantha A. Martin, Esq. found out that she was
8 pregnant with a due date in August 2021. It is Ms. Martin's intention to take maternity leave
9 from August 2021 until the end of October/beginning of November 2021 depending on her health
10 and the health of the child. During that time, Ms. Martin will not be available for any depositions
11 and will have limited availability to review the necessary expert disclosures. Furthermore, the
12 parties anticipate that there will be numerous depositions that need to be taken to fully litigate all
13 of the claims and defenses in this matter. The two hundred and forty (240) day extension of time
14 will ensure that the parties have ample time to conduct any and all discovery necessary for this
15 matter. The parties recognize that this is a lengthy discovery period but given Ms. Martin's
16 pregnancy as well as all of the claims, defenses and parties at issue here, they believe that the two
17 hundred and forty (240) day extension is necessary. As such, the parties agree that an additional
18 **two hundred and forty (240) days** are needed to disclose experts, complete party and witness
19 depositions and complete discovery.

20 **I. Discovery Completed to Date**

- 21 1. A Joint Discovery Plan and Scheduling Order (ECF No. 39) was filed on
22 October 23, 2019.
- 23 2. Plaintiff served their Initial FRCP Disclosures on October 28, 2019.
- 24 3. Defendant Tropicana De, LLC served their Initial FRCP Disclosures on October
25 29, 2019.
- 26 4. Defendant Clark County, et. al. served their FRCP 26 Initial Disclosures on
27 October 30, 2019.
- 28 5. Defendant Clark County, et. al served their FRCP 26 First Supplemental
 Disclosures with exhibits on February 25, 2020.

6. Plaintiffs propounded their First Set of Discovery to Defendant Tropicana on
7. February 12, 2020 and received Tropicana's Responses on April 27, 2020.
8. Plaintiffs propounded their First Set of Written Discovery to Defendant Clark
9. County, et. al. on February 12, 2020 and received their response on April 29,
10. 2020.
11. Defendant Clark County, et. al. served their Second Supplemental FRCP26
12. disclosures and exhibits on April 29, 2020.
13. Defendant Clark County, et. al. propounded their first set of written discovery on
14. Plaintiffs on April 21, 2020 and received their response on June 9, 2020.
15. Plaintiffs propounded Second Set of written discovery on Defendant Clark
16. County on April 13, 2020.
17. Plaintiffs propounded Third Set of written discovery on Defendant Clark County
18. on June 9, 2020 and received their response on April 10, 2020 and received their
19. response on July 30, 2020.
20. Plaintiffs propounded Second Set of written discovery on Defendant Tropicana
21. on June 11, 2020 and received their responses on August 21, 2020.
22. Defendant Clark County, et. al. served their Third Supplemental FRCP26
23. disclosures and exhibits on June 26, 2020,
24. Defendant Clark County, et. al. served their Fourth Supplemental FRCP26
25. disclosures and exhibits on July 30, 2020,
26. The deposition of Terry Kukyendoll was set for October 6, 2020 but needs to be
27. re-noticed.
28. The deposition of Recccah Taylor was set for October 7, 2020 but needs to be re-noticed.
18. The deposition of Sasha Scott was set for October 7, 2020 but needs to be re-noticed.
17. The deposition of Gloria Maldonado is TBD.
18. The deposition of Audra Gutierrez is TBD.

- 1 19. The deposition of Anthony Diggs is TBD.
 2 20. The deposition of Valerie Shyface is TBD.
 3 21. The deposition of Anne Sullivan is TBD.
 5 22. The deposition of Michelle Brown is TBD.
 6 23. The deposition of Traci Silva is TBD.
 7 24. The deposition of Mark Perkinson is TBD.

8 **II. Description of Additional Proposed Discovery**

9 The parties discussed what additional discovery needs to be completed in this matter. It
 10 was determined that, in order to fully litigate and investigate all alleged claims and defenses, the
 11 parties need to engage in the following:

- 12 1. Depositions of parties and witnesses.
 13 2. Additional disclosure of documents and written discovery.
 14 3. Retention of experts.
 15 4. Disclosure of all experts and their reports as well as depositions of the same.

16 **Proposed Schedule for Completing All Remaining Discovery**

17 The parties wish to extend the dates for discovery as follows:

	<u>Current Dates</u>	<u>Proposed Dates</u>
Last day to amend pleadings or add parties	January 14, 2021	September 10, 2021
Last day to serve Initial Expert Disclosures	January 14, 2021	September 10, 2021
Last day to serve Rebuttal Expert Disclosures	February 12, 2021	October 8, 2021
Last day to complete discovery	April 14, 2021	December 10, 2021
Last day to file dispositive motions	May 14, 2021	January 7, 2022
Joint Pretrial Order February 7, 2022		
If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.		

24 **III. Reasons Why Good Cause Exists to Extend Expert Discovery Deadlines**

25 FRCP 16(b)(5) provides that the scheduling order “shall not be modified” except upon
 26 a showing of good cause. The purpose of this rule is “to offer a measure of certainty in pretrial
 27 proceedings, ensuring that at some point both the parties and pleadings will be fixed.” *Nutton v.*
 28 *Sunset Station, Inc.*, Nev. Adv. Rep. 34, 357 P.3d 966, 971 (Nev. App. 2015). Good cause is

1 established by showing that the current deadline cannot be met despite the requesting party's
2 diligence in attempting to meet said deadline. Diligence in attempting to meet a deadline may be
3 determined by considering the explanation for the untimely conduct; the importance of the
4 requested untimely action; the potential prejudice in allowing the untimely conduct; and the
5 availability of a continuance to cure such prejudice. *Id.* at 971-72.

6
7 As outlined above, the parties have been engaged in extensive motion work relating to
8 Plaintiffs various claims and the defenses to the same and, until recently, the parties were without
9 an operative complaint fully outlining the parties involved in the litigation and the claims against
10 them. Parties were therefore unable to take depositions of any percipient witnesses, retain experts
11 or send out written discovery narrowly tailored to the claims at issue. With the parties finally
12 having an operative complaint from which to work, discovery can truly begin in this matter.
13 Additionally, now that Ms. Martin is pregnant with a due date in August 2021, the parties are
14 requesting additional time to allow for Ms. Martin's post-partum recovery.

15 The parties recognize that this is the third discovery extension requested. However, given
16 the nature of this case and the extensive motion work up to this point, the parties agree that
17 additional time is needed to complete discovery and to fully litigate this matter. This request is
18 not being made in an attempt to delay the litigation of this matter but instead is being requested
19 as a result of the issues outlined above as well as the party's inability to fully litigate the claim up
20 to this point.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

 ///

1 The requested extension of time for completion of discovery will allow the parties and their
2 counsel to fully litigate this matter.

3

5

6 Date: March 17, 2021
RICHARD HARRIS LAW FIRM

7

8 /s/ *Samantha A. Martin*

9

10 SAMANTHA A. MARTIN, ESQ.
Nevada Bar No. 12998
801 South Fourth Street
11 Las Vegas, Nevada 89101
Attorneys for Plaintiffs

12

13 Date: March 17, 2021
OLSONCANNON GORMLEY &
STOBERSKI

14

15 /s/ *Felicia Galati*

16

17 Felicia Galati, Esq.
Nevada Bar No. 7341
9950 West Cheyenne Avenue
18 Las Vegas, NV 89129
Attorneys for Defendants
Clark County, Gloria Maldonado,
20 *Audra Guitierrez/Guerrero,*

21

22 **ORDER**

23

IT IS SO ORDERED.

24

DATED this 17th day of March, 2021.

25

26

27

28

Date: March 17, 2021
HAWKINS MELENDREZ, PC

/s/ *Martin I. Melendrez*

Martin I. Melendrez, Esq.
Nevada Bar No. 7818
9555 Hillwood Drive, Suite 150
Las Vegas, Nevada 89134
Attorneys for Defendant
Tropicana DE, LLC



Cam Ferenbach
United States Magistrate Judge